



TRANSPORT CENTER UPDATE

February 2011

Vol. 3, Issue 2



Don't Forget About DataQ

DataQ provides motor carriers with an important mechanism for ensuring FMCSA's data is correct and accurate. As CSA is public, DataQ has become even more important to motor carriers to ensure that incorrect data is promptly removed from their scores. Here are some things you should know about DataQ:

I. Roadside Inspection Violations v. Traffic Citation

You or your driver are cited as a result of a roadside violation. You successfully defend against the citation through the court system. As a result, the violation on the inspection report will not show up on your CSA BASICS score, right? Wrong. A successful challenge in court removes the citation from the MVR. However, the violation remains a part of a carrier's SMS score unless successfully challenged through DataQ.

II. States May Treat DataQ Challenges Differently

Each state has an office that reviews DataQ challenges and each state may impose its own rules on how DataQ challenges are handled. For instance, some states may consider the outcome of the citation in the court system when determining whether to remove a violation challenged through DataQ. Also, some states may impose a time limit for challenging a

MK CONTACT INFORMATION

**Marcello & Kivisto,
LLC**

1200 Walnut Bottom Rd.

Third Floor, Suite 331

Carlisle, PA 17015

T: (717) 240-4686

F: (717) 258-4686

www.cdl-law.com

[Transportation Legal
News Blog](#)

Douglas Marcello, Esq.

dmarcello@cdl-law.com

Sonya Kivisto, Esq.

skivisto@cdl-law.com

Angela N. Rainey, Esq.

violation through DataQ.

III. Crash Data

For purposes of CSA, any reportable accident will be included in a carrier's SMS score. DataQ may be used to challenge crash data. For instance, if your driver was improperly assessed a "crash", such as non-contact or noninvolvement or if the accident was "non-reportable" would be proper challenges.

IV. Promptly Make DataQ Challenges

It is important to act timely when making a DataQ challenge. Your challenge must be submitted within any applicable state imposed time limitation. Also, keep in mind that your SMS score will reflect the violation while your DataQ challenge is being considered and during the first 6 months the violation will be scored at triple the points.

V. Conclusion

CSA is open to the public. More importantly, it is open to shippers, brokers, and insurers. Be sure to review your scores for input errors often. Improper assessment at the roadside inspection needs to be promptly challenged in order to avoid undue inflation of your SMS score due to double-recording, miss identification, etc. DataQ is the means of doing so. Your use and awareness of this system is vital to your success. You can access the DataQ website by clicking [here](#).

Tipsheet for CSA Warning Letters

Have you received a CSA warning letter? Do you know what to do about it? If you haven't received a warning letter do you have a plan in place to address a warning letter? What does it mean if you have received a CSA warning letter? FMCSA has recently put together a Warning Letter Tipsheet and FAQ website in order to help carriers answer these questions.

A warning letter is sent to carriers who are determined to have safety problems, which are not yet severe safety problems. A warning letter

arainey@cdl-law.com

Alyssa Adams, Esq.

aadams@cdl-law.com

M&K Upcoming Events:

3/22-3/23 - 2011 NYS Truck Safety & Education Conference, Albany, NY - Partner Doug Marcello will be a guest speaker on "Mitigating Risk in an Accident" for more information click [here](#).

For more current updates on events, follow M&K on [Facebook](#) and [Twitter](#).

Upcoming Events in the Industry:

Mar. 13th-16th-

Truckload Carriers Association 2011 Annual Convention, in San Diego, CA for more information click [here](#).

Mar. 22nd-

29th-Motor Fleet Safety Basic/Managing Motor Fleet Safety Programs hosted by PMTA. For more info click [here](#).

is sent to carriers as another tool available in FMCSA's intervention tool kit and is meant to be a less invasive step of the intervention process.

FMCSA's Tipsheet is intended to assist carriers who have received a warning letter. To view FMCSA's Tipsheet click [here](#). Another resource available to carriers is the warning letter factsheet. The warning letter factsheet provides answers to frequently asked questions as well as a sample warning letter for carriers to review. You can access the factsheet by clicking [here](#).

PSP Improvements and Updates

In the Spring of 2010, FMCSA launched its Pre-Employment Screening Program (PSP). PSP is a program aimed at assisting motor carriers better assess driver applicants during the hiring process and is available to carriers for a fee.

Through PSP, a motor carrier can access the safety records of a driver applicant with the permission of the driver applicant. Originally, PSP only contained 5 years of crash data and 3 years of inspection data on a driver, which is obtained from the Motor Carrier Management Information System (MCMIS). Information concerning a driver's convictions is not included in the information.

Recently, FMCSA has made more driver information available through PSP. A PSP report on a driver will now include data for co-driver safety and post-crash violations in addition to the information listed above.

Another improvement FMCSA has made to the PSP website is to show the date the driver information was last updated. A feature that was previously not available to motor carriers. To view the PSP website click [here](#).

**Don't Miss Your Chance
to Comment on FMCSA's
Proposed HOS Rule**

Mar. 27th-29th - Lifesavers Conference, Pheonix, AZ for more information click [here](#).

Mar. 29th - Commercial Motor Vehicle Operating Requirements 101 hosted by PMTA. For more info click [here](#).

Mar. 31st - April 1st - Mid-America Trucking Show, Louisville, KY for more information click [here](#).

Documents and Resources Available From M&K

If you are interested in obtaining copies of the following, please call or email.

- Hours-of-Service Rules Safety Impact 2010 Analysis compiled by ARTI in May 2010

- Accident preparedness DVD and/or forms

- Powerpoint presentation regarding CSA 2010 presented by ATA

- Powerpoint presentation by Dr. Hickman regarding Distracted Driving Study

On March 4, 2011, the formal comment period for FMCSA's Proposed HOS rule will end. Make sure your voice is heard. For more information on how to comment visit FMCSA's comment page by clicking [here](#). You can learn more about submitting a comment on the proposed rule on [M&K's blog](#).

M&K's Doug Marcello recently presented a webinar on FMCSA's Proposed HOS Rule. If you missed the webinar, you can view it on M&K's website by clicking [here](#).

For more HOS resources check out the links provided below.

[FMCSA'S HOS WEBSITE](#)

[COPY OF PROPOSED RULE](#)

[HOS - FAQs WEBSITE](#)

[HOW TO SUBMIT COMMENTS](#)

[COMMENT VIA INTERNET](#)

[SAFEDRIVERHOURS.COM](#)

[M&K BLOG](#)

STAY CONNECTED:

You can now follow, M&K, LLC on the web!



presented at M&K
Seminar

To see M&K's recent case results and articles click [here](#).

Other Resources

FMCSA Distracted Driving Instructional Videos click [here](#).

[PA Motor Trucking Association](#)

[American Trucking Association](#)

[Trucking Industry Defense Association \(TIDA\)](#)

[Federal Motor Carrier Safety Administration](#)

[PA Travel Information To-Go](#)

[National Traffic and Road Closure Information](#)

For more resources click [here](#)

[Transportation Legal News Blog](#)

LET US KNOW WHAT YOU THINK

We want to focus our articles on the issues and concerns of our subscribers. If you have suggestions for our newsletter please do not hesitate to contact us.

Free Presentations for Your Driver Meetings

We provide FREE presentations at driver's meetings geared toward our client's topics of interests. Recently, we finished filming a mock trial cross-examination of a driver as part of a new presentation.

Please let us know if you are interested.

About Our Firm

Founded in 2005, **M&K, LLC** is dedicated to and focused upon transportation law and the needs of their transportation clients. Since opening in 2005, **M&K, LLC** has expanded its office to provide clients with the attention and availability they deserve.

QUOTE OF THE MONTH

"If we had no winter, the spring would not be so pleasant; if we did not sometimes taste of adversity, prosperity would not be so welcome."

~Anne Bradstreet



DISCLAIMER: The Information Contained in this Newsletter is NOT Legal Advice.

